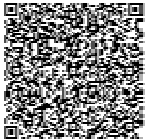


LPA-1084-2024 (O&M)

2024:PHHC:110412-DB



107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-2627-LPA-2024 in/and
LPA-1084-2024 (O&M)
Date of Decision: August 22, 2024

Gurnam Singh and others Appellants

Versus
State of Punjab and others Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. H.P.S. Ghuman, Advocate for the appellants.

Mr. Rohit Ahuja, DAG, Punjab.

LISA GILL, J.

CM-2627-LPA-2024

- 1. For the reasons mentioned in application as well as arguments addressed, delay of 7 days in filling of the appeal is condoned.
- 2. Application is, accordingly disposed of.

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- 1. Prayer in this appeal is for setting aside order dated 22.02.2024 passed by learned Single Bench whereby CWP-28605-2023 filed by appellants (writ petitioners) has been dismissed. Writ petitioners in the above said writ petition sought setting aside of order dated 20.02.2023 whereby their claim for

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promotion to the post of Inspectors from the date their juniors were promoted had been rejected.

2. It is pleaded in the writ petition that petitioners, who are retired officials of Punjab Police had joined as Constables on different dates as are detailed in para 2 of the writ petition. Prior to the year 2008, there were no separate and distinct cadres between Punjab Armed Police (PAP) and general cadres in the field. There was a common source of recruitment upon which services of the selected incumbents would be allocated to PAP or be retained on the general side with complete inter-changeability amongst the two. It is only in 2008 by virtue of the amendment in Punjab Police Rules that separate cadres were created in the District Police, Armed Battalion and Intelligence Wing with a stipulation that seniority in each of the cadres at all levels would be maintained centrally. Four cadres were, thus, present i.e. District Cadre, PAP, Intelligence Wing, Technical and Support staff. Appellants (writ petitioners) were promoted w.e.f. October 1992 from the post of Constable to Head Constable. Process of preparing seniority list of officials of separate cadres namely District Police cadre and Armed Police cadre w.e.f. 20.02.2008 was completed by the respondent – authorities in compliance of decision dated 16.12.2014 passed in CWP-4829-2011 (SI Pardeep Singh and others versus State of Punjab and others). Options were called from the concerned officials including writ petitioners as to whether they wished to opt for District Police cadre or Armed Police cadre. Admittedly, appellants (writ petitioners) had submitted their options for District cadre in the office of SSP, SAS Nagar. As per options submitted by them in the rank of Head Constable, they were granted seniority in

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the District cadre. Thereafter, vide memo dated 30.10.2018 petitioners were assigned seniority/promotion in the rank of ASI in District cadre.

3. Grievance raised by writ petitioners was that their juniors who were part of PAP cadre were afforded promotion while ignoring writ petitioners. CWP-27998-2022 earlier filed by appellants was disposed of while directing competent authority to decide representation dated 03.12.2021 submitted by writ petitioners within a period of three months in accordance with law. In compliance thereto, order dated 20.02.2023 was passed rejecting the claim of writ petitioners while concluding that they had submitted their options for District Police cadre, therefore, they could not claim seniority/promotion at par with officials of Armed Police cadre.

4. CWP-28605-2023 was filed by appellants challenging rejection of their claim. Learned Single Bench after considering the facts and circumstances of the case, dismissed the writ petition. Aggrieved therefrom, present appeal has been filed.

5. Learned counsel for appellants submits that options as such were not submitted by writ petitioners. The department did not act fairly inasmuch as order dated 16.12.2014 was not complied with in letter and spirit wherein it had been directed that respondents would do well to give wide publicity and invite claims and objections from all affected persons before recasting of seniority. No option as such was sought from appellants after passing of order dated 16.12.2014. It was incumbent upon the department to have first explained the pros and cons of joining the District Police cadre or Punjab Armed Police. Frequency of promotional avenues should have been duly explained before acceptance of stereotyped options. It is contended that learned Single Judge has

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passed impugned order in haste. It is, thus, prayed that this appeal be allowed and impugned order dated 22.02.2024 be set aside.

6. Learned counsel for State (on advance notice) has refuted the arguments as addressed. It is submitted that impugned order dated 22.02.2024 has been passed correctly and deserves to be upheld. Dismissal of the appeal is sought.

7. We heard learned counsel for parties and have perused the file with their able assistance. However, we do not find any ground to cause interference in the matter. Claim of appellants was rejected by authorities vide detailed order dated 20.02.2023. It is specifically noted therein that all the petitioners had duly submitted their options for District Police cadre at the time of distribution of cadres on 20.02.2008. As per options submitted by them in the rank of Head Constable, they were conferred seniority in the District rank. Vide memo dated 30.10.2018, appellant were also assigned seniority/promotion in the rank of ASI in District cadre. Option forms submitted by writ petitioners are duly attached with written statement filed on behalf of respondents as Annexures R1 to R6. Therefore, argument raised by learned counsel for appellants that options had not been submitted is falsified by the record. Faced with the same, it had been submitted by learned counsel for appellants that said options are no options as such because effect thereof had never been explained to the appellants. We find such argument to be totally misconceived or devoid of any merit. It is for the employee to form his or her opinion and thereafter submit the option after carefully considering the pros and cons. Employer cannot be saddled with responsibility of firstly explaining the avenues of promotion etc., fall outs, benefits or detriment in submitting one or the other option. It is further observed

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in order dated 20.02.2023 that all the writ petitioners had retired prior to date of promotion, thus, in any case they were not eligible for promotion to the rank of Sub Inspector.

- 8. Learned counsel for appellants is unable to point out any illegality, infirmity or irregularity in impugned order dated 22.02.2024 which calls for interference.
- 9. No other argument has been raised.
- 10. Keeping in view the facts and circumstances as above, appeal is dismissed with no order as to cost.
- 11. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

August 22, 2024
Rts

(SUKHVINDER KAUR)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No